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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
NATHAN DANIEL LARSON,  
  
Respondent.

Case No. 1:21-cr-00022 NONE/SKO

REQUEST TO SEAL EXHIBITS B AND C IN  
SUPPORT OF THE GOVERNMENT’S MOTION  
FOR MENTAL EXAMINATION FOR  
COMPETENCY AND COMPETENCY HEARING  
UNDER 18 U.S.C. § 4241 AND FEDERAL RULE  
OF CRIMINAL PROCEDURE 12.2(C)(1)(A)

**UNDER SEAL**

Pursuant to Local Rule 141(b), the United States, by and through Assistant United States Attorney Brian W. Enos, respectfully requests an Order sealing Exhibits B and C of the Government’s Motion for Mental Examination for Competency and Competency Hearing Under 18 U.S.C. § 4241 and Federal Rule of Criminal Procedure 12.2(c)(1)(A). Exhibit B and Exhibit C each consist of psychiatric and psychological health records pertaining to the defendant.

The Court may order documents to be filed under seal. While the press and the public have a presumed right of access to court proceedings and documents under the First Amendment, this presumed right is not absolute. See Press-Enterprise Co. v. Superior Court, 464 U.S. 501, 510 (1985). It can be overcome “based on findings that closure is essential to preserve higher values and is narrowly tailored to serve that interest.” Id. From the Court’s perspective, the controlling “interest is to be articulated along with findings specific enough that a reviewing court can determine whether the closure order was properly entered.” Id.

**Exhibits B and C**

Here, the Government seeks to file two written reports, (1) the first drafted by Karen V. Fukutaki, M.D. (dated February 7, 2009) and identified as Exhibit B, and (2) the second drafted by David E. Morrow, Ph.D (dated April 5, 2009) in support of the Government's Motion for Mental Examination for Competency and Competency Hearing Under 18 U.S.C. § 4241 and Federal Rule of Criminal Procedure 12.2(c)(1)(A), under seal. As noted above, neither of these exhibits are currently made available to the public. Both Exhibits B and C consist of medical and psychiatric records pertaining to the defendant.

The government understands that defense counsel obtained copies of each of these documents prior to government counsel's obtaining them on May 3, 2021. Government counsel does not plan to permit other parties or individuals to receive a copy or access to these documents because they contain sensitive medical information particular to the defendant, except for a mental health expert who may be hired in the future to evaluate the defendant under Federal Rule of Criminal Procedure 12.2(c)(1)(B).

Many courts have recognized that the need to protect medical privacy has qualified as a "compelling reason," for sealing records in connection with a dispositive motion. See, e.g., San Ramon Reg'l Med. Ctr., Inc. v. Principal Life Ins. Co., No. C 10-02258 SBA, 2011 WL 89931, at \*1 n. 1 (N.D.Cal. Jan.10, 2011); Abbey v. Hawaii Emp'r Mut. Ins. Co., Civil No. 09-000545 SOM/BMK, 2010 WL 4715793, at \* 1-2 (D.Haw. Nov.15, 2010); Wilkins v. Ahern, No. C 08- 1084 MMC (PR), 2010 WL 3755654, at \*4 (N.D.Cal. Sept. 24, 2010); Lombardi v. Tri West Healthcare Alliance Corp., 2009 WL 1212170, at \*1 (D.Ariz. May 4, 2009); Battle v. Martinez, 2:16-cv-0411-TLN-CKD, 2017 WL 445736 at \*3 (E.D.Cal. Feb. 2, 2017).

Due to the need to protect the defendant's medical privacy, the Government files this Request, seeking to keep the documents contained in Exhibits B and C under seal. See United States v. Lopez-Sanchez, No. 2:14-cr-0245 KJM, 2017 WL 2472237, at \*2 n.3 (E.D. Cal. June 8, 2017); United States v. Awai-Fuller, No. 2:11-cr-0181 KJM, 2016 WL 7014376, at \*1 n.1 (E.D. Cal. Nov. 30, 2016); United States v. Garcia-Chavez, No. 2:09-cr-0407 KJM, 2016 WL 6875876, at \*2 n.3 (E.D. Cal. Nov. 21, 2016); United States v. Johnson, No. 2:12-cr-0149 KJM, 2015 WL 7077428, at \*2 (E.D. Cal. Nov. 13,

2015); Stratmon v. Schultz, No. 103CV06437RECDLBHC, 2006 WL 1439398, at \*1 (E.D Cal. May 22, 2006).

**Conclusion**

Based on the information contained in each attachment and the foregoing reasons, the Government respectfully requests that this Court order Exhibits B and C to be filed under seal. The Government makes this narrowly tailored request to keep private documents that share nonpublic information concerning the defendant's medical and psychiatric treatment.

Dated: May 20, 2021

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By: /s/ BRIAN W. ENOS  
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